

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.
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Attorneys for Defendant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UBS REAL ESTATE SECURITIES, INC.,

Plaintiff,

Case No. 07-CV-3701-RJH
ECF Case

- against -

AMERICAN FIDELITY MORTGAGE CORP.,

Defendant.

ANSWER

Defendant, American Fidelity Mortgage Corp. ("AFMC"), by its undersigned attorneys, for its Answer to plaintiff's Complaint alleges as follows:

**ALLEGATIONS COMMON TO
ALL CAUSES OF ACTION**

1. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1.
2. Admits the allegations in Paragraph 2.
3. Upon information and belief, admits the allegations in Paragraph 3.
4. Answering Paragraph 4, denies the allegations in said paragraph, though admits that defendant does not control the exercise of personal jurisdiction by this Court over AFMC in this matter, and admits that it registered to do business in the State of New York, and that the contract between plaintiff and defendant was to be performed in New York according to its terms.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5, though admits that defendant does not contest this exercise of personal jurisdiction by this Court over AFMC in this matter.

6. Answering Paragraph 6, admits that in May 2005 AFMC executed a certain Master Mortgage Loan Sale Agreement (“Agreement”) made as of May 2005; denies knowledge or information sufficient to form a belief as to whether such Agreement was executed by plaintiff; and, except as so pleaded, denies the allegations in Paragraph 6.

7. Answering Paragraph 7, respectfully refers the Court to the Agreement for the terms and conditions thereof.

8. Answering Paragraph 8, respectfully refers the Court to the Agreement for the terms and conditions thereof.

9. Answering Paragraph 9, respectfully refers the Court to the Agreement for the terms and conditions thereof.

10. Denies the allegations in Paragraph 10.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12.

13. Denies the allegations in Paragraph 13.

14. Answering Paragraph 14, admits that AFMC did not repurchase the loans listed on Exhibit; but denies that AFMC had breached the Agreement.

ANSWER TO THE
FIRST CAUSE OF ACTION

15. AFMC repeats and realleges its responses in Paragraphs 1-14 above as if set forth at length herein.

16. Denies the allegations in Paragraph 16.

17. Denies the allegations in Paragraph 17.

18. Denies the allegations in Paragraph 18.

ANSWER TO THE
SECOND CAUSE OF ACTION

19. AFMC repeats and realleges its responses in Paragraphs 1-28 above as set forth at length herein.

20. Denies the allegations in Paragraph 20.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 21, and denies that loss mitigation is the responsibility of servicers vis-à-vis defendant..

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 22.

23. Upon information and belief, admits the allegations in Paragraph 23.

24. Admits the allegations in Paragraph 24.

25. Denies the allegations in Paragraph 25.

ANSWER TO THE
THIRD CAUSE OF ACTION

26. AFMC repeats and realleges its responses in Paragraphs 1-25 above as if set forth at length herein.

27. Denies the allegations in Paragraph 27.

28. Denies the allegations in Paragraph 28.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

29. As AFMC did not breach the Agreement, plaintiff's First, Second and Third Causes of Action fail to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

30. The classification of the loans reflected in Exhibit A as “Early Payment Default Loans” was caused by the acts or omissions of plaintiff and/or its agents, its mortgage servicers, whose acts or omissions, and ramifications thereof, are not the responsibility of AFMC.

THIRD AFFIRMATIVE DEFENSE

31. Plaintiff's damages, if any, properly attributable to AFMC are less than the amount prayed for in the complaint.

FOURTH AFFIRMATIVE DEFENSE

32. Upon information and belief, plaintiff is not the real party in interest with respect to some or all of the allegedly defaulted loans.

FIFTH AFFIRMATIVE DEFENSE

33. Upon information and belief, plaintiff has failed to properly and fully mitigate its alleged damages.

Dated: June 20, 2007

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.
Attorneys for Defendant American Fidelity Mortgage Corp.

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CERTIFICATION OF SERVICE

I hereby certify that the within Answer and Rule 7.1 Statement was electronically filed with the Clerk of the United States District Court Southern District of New York, and that true copies of the within papers were served upon the following via – Federal Express:

Joel M. Miller, Esq.
Miller & Wrubel, P.C.
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Jeremy Mack Sher, Esq.
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New York, NY 10177

Hon. Judge Richard J. Holwell
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

all on this 20th day of June, 2007.

PRICE, MEESE, SHULMAN & D'ARMINIO, P.C.
Attorneys for Defendant American Fidelity Mortgage Corp.

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